IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 19310 of 2005(W)

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PETITIONER:

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M.A. AHAMED, ARABIC TEACHER (RTD.)
VALAL, P.O. EDACHAKAI, TRIKARIPUR VIA.,
KASARAGOD DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, DEPARTMENT OF
GENERAL EDUCATION, SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF FINANCE, SECRETARIAT,
THIRUVANANTHAPURAM.

3. DEPUTY DIRECTOR OF EDUCATION,
KASARAGOD.

4. ASSISTANT EDUCATIONAL OFFICER,
CHERUVATHUR.

BY SPL.GOVERNMENT PLEADER(FINANCE) N. MANOJ KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19 /10 /2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.19310 OF 2005

PETITIONER'S EXHIBITS

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| EXT.P1: | COPY OF STATEMENT SHOWING THE FIXATION OF PAY IN HIGHER GRADE DATED 22.11.1994 SUBMITTED BY THE PETITIONER. |
| EXT.P2: | COPY OF COVERING LETTER DATED 22.10.2003 SUBMITTED BY THE AEO TO THE DDE |
| EXT.P3: | COPY OF THE LETTER DTD.2.1.2004 ISSUED BY THE AEO TO THE HEADMASTER, GLPS, KOOLERI. |
| EXT.P4: | COPY OF THE LETTER DTD 3.5.2005 ISSUED BY R2. |
| EXT.P5: | COPY OF THE LETTER DATED 13.4.2004 ISSUED BY R1. |
| EXT.P6: | COPY OF G.O.(P)NO.399/(178)/99/FIN. DATED 5.2.1999. |
| EXT.P7: | COPY OF REPRESENTATION DTD 30.5.2005 SUBMITTED BY THE PETITIONER BEFORE R1. |
| EXT.P8: | COPY OF THE JUDGMENT DTD 11.3.2002 IN O.P.NO.20280/2001. |
| EXT.P9: | COPY OF THE JUDGMENT DTD 23.1.2003 IN O.P.NO.26374/2002. |
| EXT.P10: | COPY OF THE JUDGMENT DTD 26.11.2002 IN O.P.NO.35448 OF 2002. |
| EXT.P11: | COPY OF THE JUDGMENT DTD 5.11.2002 IN O.P.NO.21500 OF 2001. |
| EXT.P12: | COPY OF THE JUDGMENT DTD 7.1.2003 IN O.P.NO.299 OF 2003. |

TRUE COPY

PA TO JUDGE.

**S. SIRI JAGAN, J.**

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**W.P.(C)No. 19310 OF 2005**

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Dated this the 19th day of October, 2007

## JUDGMENT

The petitioner retired from service with effect from 30.6.2002 as a Full Time (Arabic) Teacher. He became entitled to senior grade with effect from 1.10.1994. The petitioner exercised option in the senior grade and the pay was re-fixed accordingly. Thereafter the petitioner wanted to re-opt in accordance with Ext.P6 Government Order. On 14.2.2004, the same was rejected on the ground that the last date prescribed for re-option in Ext.P6 was over long ago and therefore, the petitioner cannot exercise re-option. The petitioner is challenging Exts.P4, P5 and P6 orders whereby the petitioner's request for re-option has been rejected. The petitioner's contention is that this Court had in Exts.P8, P9 and P10 judgments permitted such re-option and similar benefit should be extended to the petitioner also.

2. I have heard the learned counsel for the petitioner as also the learned Government pleader. The learned Government

pleader submits that when Ext.P6 Government Order fixed a time limit for re-option, the petitioner cannot be permitted to submit re-option beyond the said date. He particularly points out that the last date fixed for submitting re-option as per Ext.P6 was 5.5.1999, whereas the petitioner submitted his re-option only on 14.2.2004 almost 9 years after the last date fixed by Ext.P6. He also points out that the petitioners in Exts.P8 to P10 judgments had in fact submitted their re-options prior to the last date and therefore those judgments are not applicable to the petitioner's case.

3. I have considered the rival contentions in detail. I am inclined to reject the contention of the petitioner straight away on account of unexplained delay and laches from 1.10.1994 as the petitioner had submitted re-option for re-fixing of pay in accordance with the senior scale belatedly. Ext.P6 Government Order was issued on 5.2.1999 fixing 5.5.1999 as the last date for re-option. Admittedly, the petitioner filed re-option on 14.2.2004. The judgments Exts.P8 to P10, even if applicable, were rendered on 11.3.2002, 23.1.2003 and 26.11.2002. The petitioner did not care to submit the re-option even within a reasonable time

from those judgments. The further contention of the learned Government Pleader that in those cases, the petitioners submitted their re-option within the time limit prescribed also could not be controverted by the petitioner. Therefore, in any view of the matter, the petitioner is not entitled to any reliefs in the writ petition and accordingly, the writ petition is dismissed.

**S. SIRI JAGAN, JUDGE**

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